

FILED

MAY 05 2016

Clerk, U S District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

KERMIT POULSON,

Plaintiff,

vs.

DERICK BUDD, BEAU BALTEZAR,
GARRETT KENT, SAM SHORT,
JOSH SWEENEY, AND JASON
TRUDEAU,

Defendants.

CV 14-43-H-DLC-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Order, Findings and Recommendations in this matter on March 29, 2016, recommending that Plaintiff Kermit Poulson’s (“Poulson”) Motion for Preliminary Injunction and Temporary Restraining Order (Doc. 69) should be denied. Poulson failed to timely object to the Findings and Recommendations, and so waived his right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See* *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been

committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendations, the Court finds no clear error in Judge Johnston’s conclusion that Poulson’s Motion for Preliminary Injunction and Temporary Restraining Order should be denied because he has not demonstrated a likelihood of success on the merits due to his failure to exhaust his administrative remedies.

Accordingly, IT IS ORDERED that:

- (1) Judge Johnston’s Findings and Recommendations (Doc. 87) are ADOPTED IN FULL.
- (2) Poulson’s Motion for Preliminary Injunction and Temporary Restraining Order (Doc. 69) is DENIED.

Dated this 5th day of May, 2016.



Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court